

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ZACHARY GIAMBALVO, JOHN MOUGIOS,
SHANE MASHKOW, KEVIN MCLAUGHLIN,
MICHAEL MCGREGOR, FRANK MELLONI,
and RENAISSANCE FIREARMS INSTRUCTION,
INC., and all similarly situated individuals,

Plaintiffs,

22 Civ. 04778 (GRB)(ST)

-against-

**DECLARATION OF
SHANE MASHKOW**

SUFFOLK COUNTY, New York,
Police Commissioner RODNEY HARRISON,
in his Official Capacity, MICHAEL
KOMOROWSKI, Individually, ERIC BOWEN,
Individually, WILLIAM SCRIMA, Individually,
WILLIAM WALSH, Individually, THOMAS
CARPENTER, Individually, JOHN DOES
1-5, Individually and JANE DOES 1-5,
Individually,

Defendants.

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SHANE MASHKOW, declares pursuant to 28 U.S.C. § 1746 that:

1. I am a plaintiff in the above-captioned matter. I make this Declaration of my own personal knowledge and if called as a witness, I could and would testify competently to the truth of the matters set forth herein.
2. I submit this Declaration in support of Plaintiffs' application to preliminarily and permanently enjoin enforcement of policies and procedures of the Suffolk County Police Department and certain state statutes that are violating my right to purchase, possess, and carry a handgun for self-protection.
3. I am a resident of Suffolk County, New York and I have no prohibitions or disqualifications to the lawful purchase, receipt, possession, or ownership of firearms.

4. I intend to immediately purchase, possess, and carry a Glock-19 from Dark Storm Industries in Oakdale, New York (Suffolk County). I would have already purchased a Glock-19 from Dark Storm but for SCPD's delays in issuing my handgun license. New York law prohibits the transfer or receipt of a handgun without a handgun license.

5. Even if I purchased a handgun from an FFL (subject to a NICS background check) outside of New York State, I could not possess or carry it to protect myself in New York because I would face criminal charges for possessing a handgun without a license – even in my home.

6. I object to being subjected to a discretionary licensing scheme to simply exercise my guaranteed constitutional right to keep and bear arms - conduct presumptively protected by the plain text of the Second Amendment.

7. I also intend to carry a handgun concealed for self-protection, but I will not comply with the disclosure of information under Penal Law § 400.00(1)(o), like providing my social media accounts, personal relationships and family information, an in-person interview, the character reference information, the 18-hour training requirements, or the subjective 'moral character' language. I also do not want to be at the mercy of a county employee with discretion to require me to provide "any such other information" as the new regulations allow. None of that information has any relevance to the fact that I have no disqualifiers under state or federal law to the purchase, receipt, transfer, or possession of firearms.

8. To be issued a handgun license in New York, an extensive background check is conducted – my fingerprints will be checked in the New York and federal databases for any disqualifying events, which there are none. No other government-imposed criteria should interfere with my right to purchase, possess, and carry a handgun for self-defense.

9. To comply with New York law, in 2020 I applied for a handgun license to my local licensing officer, the SCPD Licensing Bureau. I went to the SCPD website find out what needed to be done. The process required me to submit the application with a \$10 filing fee made payable to "SCPD." The only application mentioned and provided on the SCPD website was the Applicant Questionnaire.

10. I completed and submitted the Applicant Questionnaire and the \$10 fee to the Licensing Bureau. Months later, and in and around November/December 2021, I called the Licensing Bureau to check on my application, and I was told that my check was "never received" and that I would have to submit another application and \$10 fee.

11. I completed another Applicant Questionnaire and filed it with the Licensing Bureau along with another \$10 fee in February 2022 – 8 months ago.

12. In July 2022, I called Licensing Bureau to find out when I would be called in to be fingerprinted. The woman at the Licensing Bureau laughed, then told me that I should get an appointment sometime in *February 2024*.

13. I also emailed the Licensing Bureau for the same information; the Licensing Bureau responded on July 14, 2022 indicating that office was "currently processing November/December 2020, there is an extremely long wait for the interview."

14. I contacted the Licensing Bureau a few months later and was told that they are currently scheduling interviews for people who submitted the questionnaire in February 2021.

15. I was not aware that the statutory 6-month timeframe for issuing a license did not begin until presentment of the State Application (PPB-3). I would gladly submit the completed PPB-3 application, the 2 required photographs, and obtain my own my fingerprint-based unsuppressed criminal history report from the Division of Criminal Justice Services but SCPD

does not provide the ORI number for obtaining the report and it is my understanding that they will not accept the PPB-3 upon presentment, so submitting it would be futile.

16. I work in New York City every day, Monday through Friday. I leave my home before 9:00 a.m. and I do not return until after 4:30 p.m. The Licensing Bureau is only open Monday through Friday from 9:00 a.m. until 4:30 p.m. If required to be fingerprinted, personally interviewed, and/or photographed at the Licensing Bureau, I will have to take time off from work just to be able to exercise a guaranteed constitutional right. I should either be able to provide the required documents – fingerprint report, PPB-3 and photographs – by mail or, if in person, at a time outside of banker's hours. SCPD is a police station after all.

17. I have contacted multiple businesses on Long Island, including Dark Storm Industries in Oakdale, New York (Suffolk County), regarding the 18-hour training required to apply for a concealed carry license. Each business confirmed that a handgun permit is required to take the CCW training.

18. The fees range from around \$400 to \$800 (Dark Storm's fee), which is not a nominal amount of money to have to spend to exercise a constitutional right. For certain, I plan to train regularly at the gun range, at my own pace and financial ability. But to prevent me from protecting myself with a handgun until I satisfy a government-imposed condition is an obvious infringement and violates the Second Amendment.

19. The SCPD regulations and state statutes challenged in our complaint and this motion should be preliminarily and permanently enjoined.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 31, 2022

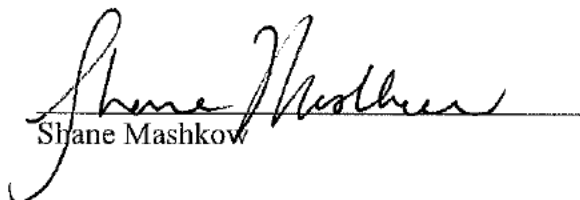

Shane Mashkow

EXHIBIT 1

Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Thursday, July 14, 2022, 4:08 PM, SCPD Pistol Licensing
<SCPDPistolLicensing@suffolkcountyny.gov> wrote:

We are currently processing November/December of 2020, there is an extremely long wait for the interview.

From: shane mashkow [mailto:shanemashkow@yahoo.com]
Sent: Monday, July 11, 2022 1:53 PM
To: SCPD Pistol Licensing
Subject: Pistol License Update

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hello,

I'm emailing today for an update on the progress of my Pistol License. My \$10 check was cashed February 17th of 2022 and haven't received a communication since.

Thank you,

Shane Mashkow